

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF SEPTEMBER  
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE A.GOPAL REDDY**

**WRIT PETITION NO : 15225 of 2004**

Between:

Dr. D.N. Rao, S/o. Dr. D. Bhaskara Rao,

R/o. H.No. 8-2-681/5, Road No. 12, Banjara Hills, Hyderabad-34.

**..... PETITIONER**

AND

- 1 The Mandal Revenue Officer, Bommalaramaram Mandal, Nalgonda District.
- 2 The Revenue Divisional Officer, Bhongiri, Nalgonda District.

**.....RESPONDENT(S)**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of writ of Mandamus declaring the action of the 1st respondent in issuing the impugned notice No. B/1745/2003, dated 9-8-2004 under Section 3 of Act 9/1977 and in interfering with the possession and enjoyment of the petitioner as illegal, arbitrary, without jurisdiction, power or authority after declaring that the land in question is not the assigned land with in the meaning of the provisions of the Act 9/1977 and the rules made thereunder and consequentially to direct the respondents not to interfere with possession and enjoyment of the petitioner and his son over the land to an extent to Ac. 48.37 gts. in Sy.No.124 of Malyala Village, Bommalaramaram Mandal, Nalgonda District and to pass

**Counsel for the Petitioner: Sri M.R.K.Chowdhar,Senior Counsel for  
MR.M.SUDHIR KUMAR**

**Counsel for the Respondent No.: GP FOR REVENUE**

**The Court at the admission stage made the following :**

## ORAL ORDER

Petitioner claims to have purchased land to an extent of Ac.48-37 guntas under separate sale deeds states the nature and history of the land disclose that it was a patta land by virtue of long standing possession and enjoyment by the petitioner's vendors. Initiation of proceedings and issuance of impugned notice is contrary to law and Act.9/77 is not attracted to the land in dispute, under which the present impugned notice is issued, therefore, entire proceedings initiated are without jurisdiction and are liable to be set-aside.

Sri M.R.K.Chowdhary, Senior Counsel appearing for the petitioner submits that Maddireddi

Ramachandra Reddy and others against whom proceedings were initiated for cancellation of pattas granted earlier alleging that assignment made in their favour is irregular and the same was cancelled by the Tahsildar. On appeal filed by the Maddireddi Ramachandra Reddy and others, the Sub-Collector, Bhongir in Case No.H/5/81 allowed the appeal by his order dt. 22-1-1986 holding that the land holders are pattedars over land ad-measuring Ac.41-31 guntas of land and entitled to confer pattedar rights on abolition of jagirs under the Jagirs Abolition Act,1948 to the extent of land which is assigned to them in the year 1961.

When it is pointed out to the Senior Counsel that no evidence is produced along with the writ petition to show that petitioner purchased the above land from the appellants before the Sub-Collector and sub-division of S.No.124, to which eviction proceedings were initiated.

Senior Counsel by reading para 3 of the affidavit and order of the Sub-Collector contends that it can be inferred that petitioner purchased the said land only from the appellants who are parties to the appeal and if rule nisi is issued to the respondents, they can come forward that the petitioner has not purchased the land from the appellants who are parties before the Sub-Collector, which submission is not expected from a Senior Counsel.

Prima facie, the notice issued in Form No.I dt. 9-8-2004 discloses that total extent of land in S.No.124 is Ac.104-27 guntas, out of which, the petitioner is in occupation of Ac.48-37 guntas, which is said to have been an assigned land. Whether the very same Ac.41-31 guntas is the subject matter of dispute before the Sub-Collector, which is in possession of the petitioner, is not forthcoming and no evidence, as such, has been made available before this court to show that respondents have no jurisdiction to conduct an enquiry. Unless the petitioner satisfies the court for admitting the writ petition that petitioner has purchased the land from all 17 persons who are parties to the appeal, calling upon the respondents to show whether they have got jurisdiction or not does arise.

It is well settled that party in a writ petition under Art. 226 raising the point must plead and annex to the petition not only the facts but also evidence in proof of the facts (See. BHARAT SINGH V. STATE OF HARYANA::AIR 1988 SC 2181). But with the vague pleadings, advocates cannot expect that courts have to draw inference from pleadings unless specifically averred. Apart from the same even, if the said inference as inferred by the counsel is to be true, he is unable to explain how the petitioner is in possession of Ac.48-37 guntas when the land covered under appeal is only Ac.41-31 guntas.

In view of the same, it is open for the petitioner to submit the Xerox copies of sale deeds which were obtained by him and the order passed by the Sub-Collector dt. 22-1-1986 to the

Mandal Revenue Officer, Bommalaramaram and establish that the land which is covered by the appeal where it was ordered that pattedar rights should be conferred. On filing such documents, the Mandal Revenue Officer has to consider the same and pass a speaking order whether he can proceed under Act.9/77 and whether the land which was purchased by the petitioner is the very same land covered by the order of the Sub-Collector in his appeal after due enquiry into the matter. In the event, if the Mandal Revenue Officer comes to the conclusion that issuance of proceedings under Act 9/77 is not warranted and land purchased by the petitioner is patta land, he can very well drop the proceedings, otherwise, if he comes to the conclusion that the land purchased by the petitioner is different than that of the land covered by the appeal, he can proceed in the matter in accordance with law.

The writ petition is accordingly disposed of.

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A.GOPAL REDDY,J

Dt. 1-9-2004

Note: Issue CC tomorrow

(BO)

**Kmr**

ASST. REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

- 1 The Mandal Revenue Officer, Bommalaramaram Mandal, Nalgonda District.
- 2 The Revenue Divisional Officer, Bhongiri, Nalgonda District
3. 2CCs to the Govt., Pleader for Revenue, High Court Buildings,Hyderabad. (OUT)
4. 2CD copies

